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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/508,892	03/17/2000	HIEP HUATAN	PC9455A	3495

7590 05/13/2002
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EXAMINER

LEVY, NEIL S

ART UNIT	PAPER NUMBER
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1616

DATE MAILED: 05/13/2002

10

Please find below and/or attached an Office communication concerning this application or proceeding.



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EXAMINER

ART UNIT

PAPER NUMBER

76

DATE MAILED:

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 2/17/02

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1, 2, 4-24 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1, 2, 4-24 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of Reference Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s): _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

SEE OFFICE ACTION ON THE FOLLOWING PAGES --

Receipt is acknowledged of Time, Drawings and Amendments, each of 2/14/02. please note no cut-up version of claim 9 is present. Also, the term "delete" as opposed to "amend" could result in canceling the claim. Also, please cancel original claims 22-24, and send Abstract.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 2, 4, 5, 8, 10, 12, 14-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Hsu et al EPO 537998.

The rejection of record is maintained.

This device is solid and specifically directed at implants—line 38, page 2 "it is a further object —such as medical implants—" of avermectin and milbemycin (line 34) tablet forms are at line 16 of page 3, but the device is "cast into any desired shape" (page 3, lines 29, 30). Applicant's failure to claim specific excipient and amounts permits of wide interpretation thus met by Hsu. The processes of the instant invention as claimed are not sufficiently descriptive to be given any weight as processes; no steps are claimed to differentiate claim 17, 18 which does not further limit the "process" in 17 while 19 makes little reuse to examiner as claim 1 on which 17 depends, is a solid. Claim 20 is met by Hsu; the ingredients are mixed together and formed into desired shape (page 5, lines 37-48). Claim 21 is met because the device meets the need for avermectin and milbemycin drug delivery systems providing prolonged duration of activity (page 3, lines 32-33), which is all that is required, given one can determine if an

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animal needs a treatment, since, at Page 17, lines 19-21, we are told these drugs are applicable to infested animals.

Claims 1, 2, 8, 10-14, 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Senbo--5567429.

The rejection of record is maintained.

What is claimed is a composition, no patentable weight given to future intended use as an implant; although nothing precludes such use, even if it is not immediately evident why or where.

Claims 1, 2, 4-8, 10-14, 16-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Miller--5728719.

Mixing ingredients and forming a solid matrix, then surgically implanting, to obtain slow release (column 7, lines 5-21) of an endoparasitocidal agent effective in dogs, -- sheep--(column 4, line 5-20), avermectins and milbemycins and derivatives, thus, the instant non-critical form, doramectin (column 5, line 49-60). Tablets include the instant excipients (Example 1) BHA, BHT may be added (column 8, top) disintegrants include starches and PVP (column 9, lines 29-48). Sterilization is shown (Example 9). The device is molded, thus of any desired shape-inclusive of a non-critical rod.

Claims 1, 2, 4-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shih et al EP 473223 in view of Hsu and Miller 5728119 or Dinnetta et al JP 0240274.

The rejection of record is maintained, but for substitution of references showing applicants claimed excipients in implants.

Shih's implants incorporates the instant excipients, but not each equivalent is identified. Hsu also makes implants, with excipients,---readily useful in Shih, if so desired, or the form of Shih is readily obtainable by Hsu, if desired. In either case, Miller show tableting excipients can be used, as does Divetta. Thus, one of ordinary skill in the art would find it obvious, given the prior art of record, to make any shaped, any density, solid delivery device of Doramectin, avermectin, or mubemicyns, depending on the parasite of concern, the animal species and size, weight, and health thereof, and desired dosage schedule.

Applicant's arguments filed 2/14/02 have been fully considered but they are not persuasive. Applicant's arguments have been addressed above..

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil Levy whose telephone number is 308-2412. The examiner can normally be reached on Tuesday- Friday 7:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose Dees can be reached on 308-4628. The fax phone numbers for the organization where this application or proceeding is assigned are 305-4556 for regular communications and 305-3592 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-1235.

Levy: mv
May 9, 2002



NEIL S. LEVY
PRIMARY EXAMINER